



BILLING CODE: 4810-02

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Proposed Collection; Comment Request; Renewal without Change of the Requirement for Information Sharing Between Government Agencies and Financial Institutions

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, FinCEN is soliciting comments concerning the renewal without change of the “Information sharing between government agencies and financial institutions” under 31 CFR 1010.520, generally referred to as the 314(a) program.

DATES: Written comments are welcome and must be received on or before [INSERT 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

- **ADDRESSES:** written comments SHOULD BE SUBMITTED to: Office of Regulatory Policy, Financial Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183. Attention: PRA Comments—314(a) program.

- Comments also may be submitted by electronic mail to the following Internet address: regcomments@fincen.gov with the caption in the body of the text, “Attention: PRA Comments— 314(a) program.”
- Please submit by one method only. All comments submitted by either method in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

Inspection of comments. Comments will be posted on the FinCEN public website.

Persons wishing to review the comments submitted may access the posted comments by going to

https://www.fincen.gov/statutes_regs/frn/https://www.fincen.gov/statutes_regs/frn/ and select the appropriate listing.

FOR FURTHER INFORMATION CONTACT: FinCEN Resource Center at 1-800-767-2825 or 1-703-905-3591 (not a toll free number) and select option 3 for regulatory questions. E-mail inquiries can be sent to FRC@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. *Statutory Provisions*

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (“USA PATRIOT Act” or “Act”), Public Law 107-56. Title III of the Act amends the anti-money laundering provisions of the Bank Secrecy Act (“BSA”), codified at 12 U.S.C. 1829b and 1951–1959 and 31 U.S.C. 5311–5314 and 5316–5332, to

promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer the BSA has been delegated to the Director of FinCEN.

Of the Act's many goals, the facilitation of information sharing among governmental entities and financial institutions for the purpose of combating terrorism and money laundering, is of paramount importance. As with many other provisions of the Act, Congress has charged the U.S. Department of the Treasury with developing regulations to implement these information-sharing provisions.

Subsection 314(a) of the Act states in part that:

[t]he Secretary shall . . . adopt regulations to encourage further cooperation among financial institutions, their regulatory authorities, and law enforcement authorities, with the specific purpose of encouraging regulatory authorities and law enforcement authorities to share with financial institutions information regarding individuals, entities, and organizations engaged in or reasonably suspected based on credible evidence of engaging in terrorist acts or money laundering activities.¹

B. Overview of the Current Regulatory Provisions Regarding the 314(a) Program

On September 26, 2002, FinCEN published a final rule implementing the authority contained in section 314(a) of the Act.² That rule ("the 314(a) rule") required U.S. financial institutions upon FinCEN's request, to search their records to determine whether they have maintained an account or conducted a transaction with a person that a Federal law enforcement agency has certified is engaging in or suspected, based on

¹ See 31 U.S.C. 5311-5314.

² Special Information Sharing Procedures to Deter Money Laundering and Terrorist Activity, 67 FR 60,579 (Sept. 26, 2002).

credible evidence, of engaging in terrorist activity or money laundering.³ The rule was expanded on February 10, 2010, to enable certain entities other than Federal law enforcement agencies to benefit from 314(a) requests to industry. As amended, the rule now also enables certain foreign law enforcement agencies, state and local law enforcement agencies, as well as FinCEN, on its own behalf and on behalf of appropriate components of the Department of the Treasury, to initiate 314(a) queries.⁴ Before processing a request, FinCEN requires the requesting agency to certify that, in the case of money laundering, the matter is significant, and that the requesting agency has been unable to locate the information sought through traditional methods of investigation and analysis before attempting to use the 314(a) program.⁵

Since its inception, the 314(a) program has yielded significant investigative benefits for law enforcement in terrorist financing and significant money laundering cases. Feedback from the requesters and illustrations from sample case studies consistently demonstrate that the program is extremely valuable to furthering terrorist financing and significant money laundering investigations. In view of the proven success of the 314(a) program, FinCEN seeks to renew without change the 314(a) program.

II. Paperwork Reduction Act (“PRA”):⁶

³ 31 CFR §1010.520.

⁴ Expansion of Special Information Sharing Procedures To Deter Money Laundering and Terrorist Activity, 75 FR 6560 (Feb. 10, 2010).

⁵ *FinCEN’s 314(a) Fact Sheet* (https://www.fincen.gov/statutes_regs/patriot/pdf/314afactsheet.pdf)

⁶ The PRA does not apply to the requirement in section 1010.520(b)(2) concerning reports by financial institutions in response to a request from FinCEN on behalf of a Federal law enforcement agency. See 5 CFR 1320.4(a)(2). Therefore, this renewal applies only to the use of the 314(a) program with respect to queries initiated by non-federal law enforcement entities.

Title: Information sharing between government agencies and financial institutions.

Office of Management and Budget (“OMB”) Number: 1506-0049.

Form Number: Not Applicable.

Abstract: 31 CFR Chapter X, Information sharing between government agencies and financial institutions (31 CFR 1010.520) details the requirements of section 314(a) of the USA PATRIOT Act. Each financial institution (as defined in 31 U.S.C. 5312(a)(2) or (c)(1)) should refer to its Chapter X part for any additional special information sharing procedures.

Type of Review: Extension without change of a currently approved collection.

Affected Public: Businesses or other for-profit and non-profit organizations, and the Federal, state, and local government.

Frequency: As required.

Estimated Number of Respondents: 20,134.⁷

Estimated Time Per Respondent: 54 hours annually.⁸

Estimated Total Annual Burden Hours: 1,087,236.⁹

The following paragraph applies to all of the collections of information covered by this notice:

⁷ On an annual basis, there are approximately 20,134 covered financial institutions, consisting of certain commercial banks, savings associations, and credit unions, securities broker-dealers, future commission merchants, certain trust companies, life insurance companies, mutual funds and money services businesses.

⁸ Estimated requests per annum subject to the PRA include, 10 from FinCEN, 50 from state and local law enforcement, and 30 from European Union countries approved by treaty, for a total of 90 requests per annum, with each request containing an average of 9 subjects (including aliases). Each subject requires 4 minutes to research, resulting in $(90 \times 9 \times 4 \div 60) = 54$ hours per year.

⁹ Burden computation is as follows: 54 hours per year per respondent times 20,134 respondents $(54 \times 20,134) = 1,087,236$ hours.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. In accordance with 31 CFR 1010.330(e)(3), a person required to make a report under this section must keep a copy of each report filed for five years from the date of filing.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

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